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March 1, 2005

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: June 23, 2004

Case Number: TSO-0113

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter "the Individual") for continued access authorization. The regulations governing the Individual's eligibility are set forth at 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material."¹ This Decision will consider whether, based on the testimony and other evidence presented in this proceeding, the Individual's suspended access authorization should be restored. For the reasons detailed below, it is my decision that the Individual's access authorization should be restored.

I. Background

The Individual has been employed by a contractor at a DOE facility for twenty-five years in a position that requires him to have an access authorization. In June 2002, while holding the access authorization, the Individual sought out a psychiatrist (Individual's psychiatrist) for treatment of an alcohol problem and was subsequently voluntarily admitted to a treatment center for his alcohol problem. After consulting his psychiatrist, the Individual notified the local security office of his alcohol problem. The Individual's psychiatrist subsequently referred the Individual to a clinical psychologist (clinical psychologist) for additional treatment regarding anxiety and support in rebuilding his life. The Individual was diagnosed at the treatment center as suffering with alcohol dependence and depression. During this time period, the Individual was also evaluated by a staff psychologist (the staff psychologist) at the DOE facility where the Individual worked. In his Report of Medical Treatment (RMT), the staff psychologist (1) diagnosed the Individual as suffering from alcohol abuse and (2) stated that there was evidence of a significant defect in the Individual's judgment or reliability.

In July 2002, the Individual was the subject of a personnel security interview (PSI) concerning his alcohol usage. In March 2003, the Individual was evaluated by a DOE-consultant

¹ Access authorization is defined as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. §710.5(a). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

psychiatrist (the DOE psychiatrist) and was diagnosed with Alcohol Dependence, Early Full Remission. In the DOE psychiatrist's March 2003 report, the Individual was not thought to have shown adequate evidence of rehabilitation or reformation.

Because the derogatory information concerning the Individual's diagnosis of alcohol dependence had not been resolved, in February 2004 the local DOE Office suspended the Individual's access authorization and obtained authority to initiate this administrative review proceeding. The local DOE Office then issued a Notification Letter to the Individual, citing the Individual's voluntary admission to a treatment center for alcohol detoxification, the staff psychologist's RMT, and the DOE psychiatrist's diagnosis as derogatory information that created a substantial doubt as to the Individual's continued eligibility for an access authorization under 10 C.F.R. § 710.8(h) and (j).² (Criteria H and J).

Upon receipt of the Notification Letter, the Individual requested a hearing in this matter. The DOE forwarded this request to the Office of Hearings and Appeals (OHA). The OHA Director appointed me to serve as the hearing officer.

At the hearing, the Individual was represented by counsel. The Individual offered his own testimony, as well as the testimony of his wife, his close friend, and the staff psychologist. The local DOE office presented one witness, the DOE psychiatrist. The local DOE office entered 19 exhibits into the record (Exhibits 1 to 18); the Individual also submitted exhibits (Exhibits A and B).

II. Standard of Review

Under Part 710, the DOE may suspend an individual's access authorization where "information is received that raises a question concerning an individual's continued access authorization eligibility." 10 C.F.R. § 710.10(a). After a question concerning an individual's eligibility to hold an access authorization has been raised, the burden shifts to the individual to prove that "the grant or restoration of access authorization to the individual would not endanger the common defense and security and would be clearly consistent with the national interest." *See* 10 C.F.R. § 710.27(a).

In considering the question of the Individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. §710.7(c): the nature, extent, and seriousness of the conduct; the age and maturity of the individual at the time of the conduct; the voluntariness of the participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuance or recurrence; and other relevant and material factors.

² Criterion H refers to information indicating that an individual has "[a]n illness or mental condition of a nature which, in the opinion of a psychiatrist or licensed clinical psychologist, causes or may cause, a significant defect in judgment or reliability." 10 C.F.R. § 710.8(h). Criterion J refers to information indicating that an individual has "[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse." 10 C.F.R. § 710.8(j).

III. Security Concern

The derogatory information concerning Criteria H and J centers on the Individual's alcohol problem. In response, the Individual concedes that he had an alcohol problem but maintains that he is now rehabilitated. It is beyond dispute that a diagnosis of alcohol abuse or dependence raises security concerns. *See, e.g., Personnel Security Hearing, Case No. VSO-0243*, 27 DOE ¶ 82,808 (2002). As described below, given the Individual's well documented problem with alcohol, the local security office had more than sufficient grounds to invoke Criteria H and J..

IV. Facts

The facts of the present case are not in dispute. The record of this case includes the various exhibits submitted by the local DOE office and by the Individual and the testimony of several witnesses at the hearing.

The Individual self-reported his alcohol abuse to the local security office and the DOE psychologist in June 2002. Exhibit (Ex.) 6, 13. The Individual reported drinking regularly since 1989 when feeling stressed or anxious in the evenings. Ex. 5. In the months prior to reporting his alcohol use, the Individual consumed up to one quart of alcohol during the week and up to a quart of alcohol on the weekends. Ex. 13. The Individual denied ever consuming alcohol before or during work, but admitted to reporting to work hung over on occasion. *Id.*; Ex. 5 at 1. The Individual admitted that he would sometimes engage in "binge" drinking. He stated that he would always drink alone and before he went to bed. Ex. 5 at 2. The Individual would engage in binge drinking in response to certain stressors in his life. He also stated that at times he would consume alcohol to self-medicate when he was feeling ill. *Id.* The Individual stated his use of alcohol negatively affected his relationships with family and friends. Ex. 4.

The Individual voluntarily admitted himself to an alcohol treatment program as an outpatient on June 27, 2002. Ex. 12. In addition to the treatment program, the Individual also regularly attended Alcoholics Anonymous (AA) meetings and was under the care of the Individual's psychiatrist, a clinical psychologist, and a marriage counselor. Ex. 10 at 3, 4. The staff psychologist stated that the Individual's alcohol abuse was likely associated with a "co-morbid anxiety or mood disorder." Ex. 13 at 1. Two months after the Individual self-reported his alcohol problem, the Individual's psychiatrist determined that the Individual was alcohol free and was "fully functional and cooperative in his care from a psychological, psychiatric and substance abuse point of view." Ex. 11 at 2.

The DOE psychiatrist examined the Individual in March 2003. In his report following the examination, the DOE psychiatrist noted that the Individual exhibited several signs of alcohol dependence, such as "the development of tolerance," "taking larger amounts and over longer periods than intended," "a preoccupation with and inability to cut down or control his drinking," and "social losses associated with his drinking." Ex. 10 at 4. The DOE psychiatrist also noted that the Individual reported that he was completely abstinent from consuming alcohol. *Id.* at 3-4. The Individual also stated that he never intended to drink again although he was "appropriately humble about his relatively early abstinence." *Id.* at 4 The DOE psychiatrist also reported that

the Individual had “prior significant depressive and anxiety-related symptoms that have largely been treated by his current antidepressant medications and psychotherapy.” *Id.* In his report, the DOE psychiatrist noted that the Individual was very careful to avoid any security violations while describing his employment. *Id.* at 6. At the end of his report, the DOE psychiatrist concluded that (1) the Individual suffered from alcohol dependence; (2) given the very early stages of his alcohol recovery program, the Individual was not yet rehabilitated; (3) considering both the complexities in the Individual’s life and his strong commitment to making a full recovery, about 18 months of “continuous, complete, and confirmed abstinence from alcohol and significant resolution of the multiple areas of risk for continued alcohol use would be needed for adequate rehabilitation and reformation;” and (4) the Individual’s alcohol dependence is considered an illness or mental condition that could cause a significant defect in judgment and reliability. *Id.* at 6-7. Also, although the Individual’s depression could also fit the criteria for an illness or mental condition causing a significant defect in judgment or reliability, the condition was well managed and, coupled with the Individual’s conscientiousness regarding security concerns, was unlikely to cause a problem. *Id.* at 6-7.

The record contains a number of letters from different professionals and his spouse that have been submitted by the Individual regarding this matter. The Individual’s psychiatrist stated that the Individual is a “good risk” for a security clearance for the following reasons: he was no longer in the early stages of recovery for alcohol dependence, he had been active in his recovery and two years into his sobriety, he was active in Alcoholics Anonymous (AA), he made progress in dealing with his tendency to avoid conflict, and he has engaged in both individual and marital therapy. Ex. A at 4. The Individual’s psychiatrist also stated that the Individual had shown “integrity and his continued commitment to guarding his sobriety” and deserved the restoration of his security clearance. *Id.*

The Individual’s clinical psychologist stated that the Individual had established an “outstanding” sobriety program. The psychologist also noted that the Individual had made many gains in problem areas in terms of risk factors in his life. Ex. A at 6. The psychologist stated that the Individual has regularly attended both individual and marital therapy, taken medications to control his depression and anxiety, and been able to maintain his sobriety in the face of personal tragedy. *Id.* In conclusion, the psychologist stated that the Individual was very reliable and had exhibited adequate evidence of rehabilitation and reformation. Additionally, while the Individual struggled with anxiety and minor depression, neither condition was severe or consistent with more serious disorders. *Id.* Consequently, the psychologist was “very comfortable” in recommending that the Individual’s clearance be restored. *Id.* at 7.

The Individual’s wife stated in a letter submitted in the present case, that she believed the Individual had maintained complete sobriety and that she had not seen any evidence, nor was she anxious about, the possibility of a relapse. Ex. A at 7. She described the Individual’s recovery as a “conscious and deliberate effort on his part driven by a desire to lead a more fulfilling life.” *Id.* The Individual’s wife also stated that in all the time she has known him, the Individual has always demonstrated a high degree of loyalty to his work and that she believed he would never violate the conditions of his security clearance. *Id.*

The Individual's marriage counselor noted in his letter that the Individual's family has "worked hard to achieve a useful, livable, and workable team atmosphere." Ex. B. The marriage counselor also stated that, "[d]espite the stress of family life, [the Individual]'s sobriety has never seemed at risk." *Id.* Finally, the marriage counselor stated that he was confident in the Individual's ability to maintain his sobriety in the future despite any stressors that may arise. *Id.*

The staff psychologist reevaluated the Individual in June 2004. Ex. A at 9. The staff psychologist noted that the Individual had maintained his sobriety for two years and continued with various therapies such as AA meetings, psychotherapy, and marital therapy, as well as medications to control anxiety and depression. *Id.* The staff psychologist concluded that the Individual should have his access authorization restored. *Id.*

V. Hearing Testimony

At the hearing, the Individual testified that he initially began drinking to excess in response to work stress. Transcript (hereinafter, "Tr.") at 88. The Individual also stated that there was an extensive family history of alcoholism. *Id.* at 69, 72. According to the Individual, he realized that he was exhibiting behavior consistent with what he knew to be normal behavior for alcoholics, such as denying that he had a problem, going through periods of abstinence in order to prove that he was able to, and avoiding conflict. *Id.* at 69-70.

The Individual also testified that since acknowledging and reporting his drinking problem he has not had a drink. Tr. at 72. He also testified that he has no desire to go back to drinking. According to the Individual, his definition of sobriety is "no more alcohol, tee-totaler, no drinking..." *Id.* at 82. He stated that he has been able to maintain his sobriety even in the face of great personal loss. *Id.* at 76. The Individual stated that his personal life has significantly improved. *Id.* at 74. He also stated that he has support from several people, including his wife, his close friend, and his sister who is also a recovering alcoholic. *Id.* at 74-75. He stated that, in terms of handling problems that arise, he is much more able to identify them and to talk about them with his psychiatrist or the staff psychologist. *Id.* at 77-78. The Individual also testified that he knows he cannot drink alcohol again even if faced with stressful situations at work. He stated that if the job is too stressful, then he would have to consider whether to remain in that job. *Id.* at 80. When asked whether his sobriety was more important to him than his job, the Individual stated that his well-being was more important and he recognized that sobriety was a big part of that. *Id.*

With regard to his depression and anxiety, the Individual stated that he did not see those conditions as causing a problem with security issues. Tr. at 93. The Individual stated that the "depression" tended to occur only around the anniversaries of his parents' deaths or holidays when he remembered them. *Id.* He also stated that he did not feel his anxiety would be a problem because it was well-managed with medications. *Id.* at 93-94. Finally, the Individual stated that he did not foresee any attention problems whatsoever. He stated that he was very aware of security concerns and that he has a "high respect for that." *Id.* at 94. The Individual stated that he recognized the need to remain vigilant about his recovery. "It's no guarantee that if I'm, you know, sober and feel good about myself that twenty-five years down the road that I

won't pick up again. You have to be aware of it every day of your life and you can't get complacent about it." *Id.* at 96.

The Individual's close friend also testified. He stated that the Individual was extremely intent about not drinking. *Tr.* at 13. The friend also stated that the Individual was one of the most honest people he had ever met, that the Individual had never lied to him, and that he had always known the Individual to do the right thing. *Id.* at 13, 23. The friend testified that he asked the Individual whether he was drinking and that the Individual replied that he was not. *Id.* at 23. The friend also stated that the Individual did not express any cravings for alcohol to him. *Id.* at 24. Finally, the friend testified that he had noticed positive changes in the Individual since the Individual began treatment for his alcohol problem such as the Individual's being more understanding of his family situation and being in a better position to work through family issues. *Id.* at 25-26.

The Individual's wife testified that prior to the Individual telling her of his problem she had not known that he had an alcohol problem but that she was aware of a problem of some sort in the marriage. *Tr.* at 61. She further stated that she believed she would be aware if the Individual started drinking again because she would recognize his reverting back to old habits such as avoiding conflict and isolating himself. *Id.* at 62. The Individual's wife also stated that she has noticed positive changes in the Individual since he began his alcohol treatment program. For example, she stated that the Individual's communication with the family was much improved, as was the family relationship overall. *Id.* at 55. She also stated that the Individual is very loyal to his work and is "very aware of what the demands are in his work life and does what he needs to do to meet those needs." *Id.* at 56. Finally, when asked how certain she was that the Individual was not drinking again, the Individual's wife responded, "It is very close to a hundred [percent]. I'm not going to say I couldn't overlook something, but I feel pretty good about my judgment capacity and I would rate it up there close to a hundred." *Id.* at 63.

The staff psychologist testified that he evaluated the Individual when the Individual self-reported his alcohol problem and continued to see the Individual as needed from that time forward to monitor his progress. *Tr.* at 39. The staff psychologist stated that, in his opinion, the Individual had a co-existing condition, a co-morbid anxiety disorder or depression. *Id.* at 41. He testified that the Individual had been prescribed various medications to manage that condition and that the Individual was doing well on his current medication. *Id.* at 42-43. The staff psychologist described the Individual as being "brutally honest when it comes to himself and others." *Id.* at 40. He also stated that there is clear evidence that the Individual had shown sustained control over the problem and that there was also a sustained recovery effort in the part of the family. *Id.* at 43. The staff psychologist also stated that it was very impressive that the Individual had maintained his sobriety for two years in the face of real stressors. *Id.* Finally, he stated that of all the people he has treated, the Individual's was the best recovery effort he had seen. *Id.* at 49.

The DOE psychiatrist testified that he initially evaluated the Individual in March 2003 when the Individual was five months into his recovery program. He stated that the Individual had made significant progress but at that point, the Individual's recovery was at a relatively early stage. *Tr.* at 32-33. The DOE psychiatrist also discussed problems and advantages the Individual had in maintaining his sobriety. He stated that the Individual's "insight and motivation for change

[were] wonderful.” *Id.* at 32. He also stated that the Individual recognized his problem and had no difficulty in accepting the diagnosis of alcohol dependence. *Id.* The DOE psychiatrist also stated that the Individual was “extremely sincere and genuine in his interest in beating this problem in his life.” *Id.* at 35. Finally, in assessing the Individual’s overall progress in his recovery, the DOE psychiatrist stated that the Individual’s progress was “very encouraging” and that “overall [the Individual had] accomplished what the regulations would see as adequate rehabilitation.” *Id.* at 106.

VI. Analysis

In deciding whether the Individual’s security clearance should be restored, the only issue to be resolved is whether the Individual has shown adequate evidence of reformation and rehabilitation from his alcohol dependence. I find that the Individual has shown sufficient evidence of rehabilitation.

The Individual has maintained his sobriety for well over two years. In addition, he has stated that he has no intent to ever drink alcohol again. Both the Individual’s close friend and the staff psychologist described the Individual as brutally honest and intent on not drinking. The staff psychologist and the DOE psychiatrist both determined that the Individual had made significant progress in his recovery. They both found that the Individual’s recovery program was well-structured and that there was no significant risk of relapse. Each of the witnesses who testified at the hearing, including the DOE psychiatrist, noted that there had been positive changes in the Individual since he began his treatment program. The Individual’s problems with depression and anxiety are well under control. Furthermore, the Individual stated that he is much better able to recognize problems and is better able to discuss them and seek help should the need arise. There is also significant evidence that the Individual has a strong support network to help him manage both his recovery from alcoholism and his depression and anxiety issues. Finally, both the DOE psychiatrist and the staff psychologist recommended that the Individual’s clearance be restored. Based on all the evidence, I agree with the recommendation.

Upon consideration of the record in this case, I find that there is evidence that raises a doubt regarding the Individual’s eligibility for a security clearance. I also find sufficient evidence in the record to fully resolve this doubt. Therefore, I conclude that restoring the Individual’s access authorization would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. §710.27(a). Consequently, it is my decision that the Individual’s access authorization should be restored.

Richard A. Cronin, Jr.
Hearing Officer
Office of Hearings and Appeals

Date: March 1, 2005